

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PROTECTION &
ADVOCACY SERVICE, INC.

Plaintiff,

v.

Case No. 2:09-cv-10331
Honorable Gerald E. Rosen

DETROIT MEDICAL CENTER, and
DETROIT RECEIVING HOSPITAL AND
UNIVERSITY HEALTH CENTER

Defendants.

Michigan Protection & Advocacy
Service, Inc.
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Attorneys for Defendants

**STIPULATED AND AGREED ORDER (1) PRODUCTION OF RECORDS,
(2) PROTECTING THE CONFIDENTIALITY OF RECORDS AND
(3) CLOSING THIS CASE**

Plaintiff filed this lawsuit seeking injunctive relief, namely, the production by defendants of medical and peer review records relating to patients identified as patients A, B, and C. Plaintiff's complaint alleges entitlement to such records under federal law. The parties have agreed to resolve this lawsuit by the entry of this stipulated order.

NOW, THEREFORE, upon the stipulation of the parties, IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. Within thirty days after entry of this order, defendants shall produce to plaintiff all records including medical records and peer review records (if any), listed below,

relating to the individuals designated as Patients A, B, and C in the complaint.

The records shall be delivered to plaintiff's lawyer, Chris E. Davis.

(a) The following records for each patient, A, B, and C.

- i. All communication with/reports from CMS
- ii. All communication with/reports from BCAL
- iii. Sentinel Event notes and report
- iv. Root Cause Analysis notes and report
- v. All notes from Security/Safety Staff
- vi. All interview notes/staff statements each incident
- vii. Any and all records involving contact with the Detroit Police
Department
- viii. Any and all records involving contact with Adult Protective
Services
- ix. Any communication with accreditation regarding each incident
- x. Any changes made in policy/procedure as a result of these
incidents
- xi. Any Plans of Correction resulting from each of these incidents
- xii. Any additional records relating to Patients A, B, & C.
- xiii. Additional records which MPAS may learn of as a result of the
records disclosed here and may request as a follow-up, if permitted
by law.

(b) The following records relating only to Patient A.

- i. Personnel records for RN, Marlene Daley, to the extent such records mention or relate to Patient A or the incident in question.
- ii. Personnel records for Recipient Rights Adviser, Benita Martinez, to the extent such records mention or relate to Patient A or the incident in question.
- iii. Personnel records for Director, Patient/Guest Relations/Recipient Rights Adviser, Gwendolyn Dommond-Battle, to the extent such records mention or relate to Patient A or the incident in question.
- iv. personnel records for security staff involved in this incident, to the extent such records mention or relate to Patient A or the incident in question.
- v. Something in writing stating video/DVD doesn't exist and a reasonable effort to explain why

(c) The records relating to Patient B.

- i. Personnel records for Recipient Rights Adviser, Benita Martinez, to the extent such records mention or relate to Patient B or the incident in question.
- ii. Personnel records for Director, Patient/Guest Relations/Recipient Rights Adviser, Gwendolyn Dommond-Battle, to the extent such records mention or relate to Patient B or the incident in question.
- iii. Personnel records for security staff involved in this incident, to the extent such records mention or relate to Patient B or the incident in question.

iv. Copy of DVD/video

(d) The following records relating only to Patient C.

- i. Personnel records for security staff involved in this incident, to the extent such records mention or relate to Patient C or the incident in question.
 - ii. Something in writing stating video/DVD doesn't exist and a reasonable effort to explain why
 - iii. Any and all communication with CEMS (ambulance service), to the extent such records mention or relate to Patient C or the incident in question.
2. The records shall be deemed strictly confidential, and shall be held in strict confidence by plaintiff who shall comply with the confidentiality provisions under federal law, including 42 U.S.C. §10806.
 3. Plaintiff shall use the records, including any information contained therein, solely for purposes consistent with its mission, and consistent with this Order and all applicable state and federal law.
 4. In accordance with 42 U.S.C. §10806, any records the defendants release shall not be discoverable from plaintiff by way of subpoena or otherwise. All peer review records shall maintain all protections under Michigan law, including inadmissibility in court, notwithstanding defendants' production of the records to plaintiff pursuant to this Order.

CLOSURE OF CASE

This Order resolves all claims as to all parties and concludes the case. There shall be no award of costs or fees against or in favor of either plaintiff or defendants.

The Court shall maintain jurisdiction to enforce this Order, and any violation may, after appropriate notice and hearing, be punishable as a contempt of Court.

Dated: February 20, 2009

s/Gerald E. Rosen
Chief Judge, U.S. DISTRICT COURT

The parties stipulate to entry of the above Order:

s/ Chris E. Davis
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